IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.1161 OF 2003
IN
SUMMARY SUIT NO.3396 OF 2003

Jitendra Monji Shah ..Plaintiff

Vs.

M/s.Sun Polytron Industries Ltd. ..Defendants

Mr.J.B.Patel for the plaintiffs

Ms.Rekha Tawde i/b M.V.Kini and Co. for the defendants

CORAM : S.U.KAMDAR, J
DATED : 31ST AUGUST, 2005

P.C.:

. The present suit is filed for the recovery of sum of Rs.2,64,500/-. It is the case of the plaintiff that he is a Chartered Accountant and he offered his services to the defendant company for a total consideration of Rs.4.0 lacs and in support thereof he has relied upon letter dt.4.9.01 addressed by him to the company. It is further the case of the plaintiff that after the work is carried out defendants have paid Rs.2.0 lacs in part payment towards the said services rendered. However, from the record, I do not find any written

contract between the parties though the letter dt.4.9.01 stipulates that the defendant should accept the same and in token of their acceptance signed and forwarded the duplicate thereof. It is an admitted position that no such letter has been forwarded by the defendants accepting the proposal of the plaintiff. In view thereof, there is no written contract. The claim made is not maintaibable as summary suit under Order 37 Rule 2 of the Civil Procedure Code.

2. In view thereof, unconditional leave to defend is granted. Suit is transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes. Hearing of the suit expedited.